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20 BMW OF NORTH AMERICA, LLC and  
21 BAYERISCHE MOTOREN WERKE AG

22 UNITED STATES DISTRICT COURT  
23 CENTRAL DISTRICT OF CALIFORNIA

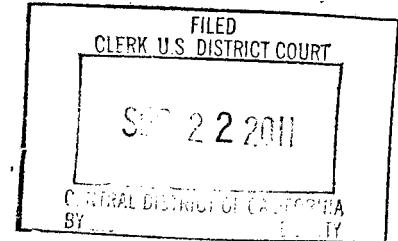
24 BMW OF NORTH AMERICA, LLC  
25 AND BAYERISCHE MOTOREN  
26 WERKE AG,

27 Plaintiffs,

28 v.

U.S. AUTO PARTS NETWORK,  
INC.,

Defendant.



Case No. **CV11-07863 PLA**

Assigned for all purposes to:

**COMPLAINT FOR:**

(1) **FEDERAL TRADEMARK  
COUNTERFEITING AND  
INFRINGEMENT;**  
(2) **FEDERAL UNFAIR  
COMPETITION;**  
(3) **VIOLATION OF THE  
ANTICYBERSQUATTING  
CONSUMER PROTECTION ACT;**  
(4) **CALIFORNIA STATUTE  
UNFAIR COMPETITION;**  
(5) **COMMON LAW UNFAIR  
COMPETITION; AND**  
(6) **DESIGN PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

## I. NATURE OF THE CASE

Plaintiffs BMW of North America, LLC and Bayerische Motoren Werke AG (collectively “BMW”) seek injunctive and monetary relief from Defendant U.S. Auto Parts Network, Inc. for trademark counterfeiting and infringement, cybersquatting, unfair competition, and design patent infringement. As alleged more fully below, Defendant has violated the Trademark Act of 1946 as amended, 15 U.S.C. §§ 1051 *et seq.* (the “Lanham Act”), and California law through its unauthorized advertisement and sale of counterfeit goods bearing BMW’s Roundel logo at over a hundred websites, including at least three that confusingly incorporate BMW’s famous trade name and trademark into their trade and/or domain names. Defendant has also violated the Patent Act, 35 U.S.C. § 271, through its sale of wheels that infringe Plaintiffs’ design patents.

## II. PARTIES

1. Plaintiff BMW of North America, LLC (“BMW NA”) is a Delaware limited liability company with its principal place of business at 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey 07677. BMW NA is a wholly owned subsidiary of BMW (US) Holding Corporation, a Delaware corporation, which is a wholly owned subsidiary of Bayerische Motoren Werke AG. BMW NA is the exclusive authorized distributor of “BMW” automotive and related products in the United States.

2. Plaintiff Bayerische Motoren Werke AG (“BMW AG”) is a corporation organized under the laws of the Federal Republic of Germany with its principal place of business at Petuelring 130, 80809 Munich, Germany. BMW AG manufactures motor vehicles, emblems, wheels, and other parts for sale in Germany and for export and sale throughout the world.

3. Defendant U.S. Auto Parts Network, Inc. is a Delaware corporation having its principal place of business at 17150 South Margay Avenue, Carson, CA

1 90746. Defendant is a publicly traded retailer of parts for automobiles (Nasdaq:  
2 PRTS).

3 4. Defendant operates an extensive network of companies that advertise  
4 and sell automotive parts over the internet. Defendant does business under dozens  
5 of trade names at more than one hundred websites, including www.usautoparts.net  
6 (“US Auto Parts”), www.autopartwarehouse.com (“Auto Parts Warehouse”),  
7 www.bmwwholesaleparts.com (“BMW Wholesale Parts”), www.partstrain.com  
8 (“Parts Train”), and www.perfectfitgroup.com (“Perfect Fit”), where it sells new  
9 and remanufactured automotive parts, including counterfeit parts bearing BMW’s  
10 trademarks and parts that infringe BMW’s design patents.

### 11 **III. JURISDICTION AND VENUE**

12 5. This is an action arising under the patent and trademark laws of the  
13 United States, specifically Titles 35 and 15 of the United States Code, 35 U.S.C. §  
14 271 and 15 U.S.C. § 1051 *et seq.*

15 6. This Court has personal jurisdiction over Defendant because it  
16 conducts business in California.

17 7. This Court has jurisdiction over the subject matter of this action under  
18 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a) and 1338(b), and has  
19 supplemental jurisdiction under 28 U.S.C. § 1367(a) over BMW’s claims under  
20 California law.

21 8. This Court also has jurisdiction over this matter on diversity grounds  
22 as all the parties are citizens of different states and/or foreign nations and the  
23 amount in controversy exceeds \$75,000.

24 9. Venue is proper in this District under 28 U.S.C. § 1391(b), as  
25 Defendant has its principal place of business in this District and, upon information  
26 and belief, a substantial part of the events or omissions giving rise to the claims  
27 herein have been occurring in this District.  
28

#### IV. FACTS COMMON TO ALL CLAIMS

##### A. Plaintiffs' Famous "Roundel" logo and "BMW" trademark



10. BMW is in the business of designing, manufacturing, and distributing motor vehicles, hood and trunk emblems, wheels, wheel center caps, and a variety of other products under various trademarks, including the "BMW" word mark and the Roundel logo shown below:






11. BMW has used the Roundel logo and "BMW" mark in the United States continuously since at least as early as 1949 in connection with the sale and service of motor vehicles.

12. Since long prior to the acts of the Defendant complained of herein, BMW has also used the Roundel logo and "BMW" mark in connection with its business of manufacturing and distributing motor vehicles, hood and trunk emblems, wheels, wheel center caps, and a variety of other products in the State of California.

13. BMW AG is the owner of the following U.S. Registrations for its Roundel logo and "BMW" mark:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class:</u> <u>Services/Goods</u>
	613,465	Oct. 4, 1955	Automobiles, motorcycles and parts thereof
	1,170,556	Sept. 22, 1981	Motor vehicle repair and maintenance services and dealership services
	1,450,212	Aug. 4, 1987	Automobiles,

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class:</u> <u>Services/Goods</u>
			motorcycles, parts thereof, including wheels, wheel rims, and watches, clocks and various other goods and services
	2,752,258	Aug. 19, 2003	Cleaning preparations for use in the automotive field, engine oil and various other goods
	3,418,573	Apr. 29, 2008	Leasing and financing services for motor vehicles; online credit applications and online banking; loan services
"BMW"	611,710	Sept. 6, 1955	Automobiles and motorcycles
"BMW"	1,164,922	Aug. 11, 1981	Motor vehicle repair and maintenance services and dealership services
"BMW"	1,627,241	Sept. 18, 1990	Clothing
"BMW"	2,816,178	Feb. 24, 2004	Floor mats for vehicles, compact disc players, non-metal key rings, metal key rings, miniature toy vehicles
"BMW"	3,436,270	May 27, 2008	Leasing services for motor vehicles; retail and wholesale financing services for motor vehicles; credit card services; online personal

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class:</u> <u>Services/Goods</u>
			banking; online customer banking services for credit card, loan, finance and lease accounts; loan services

These registrations were duly and legally issued, and are valid and subsisting.

Registration Nos. 613,465; 1,170,556; 1,450,212; 2,752,258; 611,710; 1,164,922; 1,627,241; and 2,816,178 are incontestable pursuant to 15 U.S.C. § 1065.

14. BMW NA distributes its vehicles, parts, and accessories and provides maintenance services for its customers through nationwide networks of authorized dealers and service providers. BMW NA authorizes its BMW-branded dealerships to use the Roundel logo and “BMW” mark in connection with the sale and/or service of BMW products.

15. To create and maintain goodwill among its customers, BMW has taken substantial steps to assure that all authorized BMW dealers and service providers using the Roundel logo and “BMW” mark are of the highest quality.

16. BMW has expended millions of dollars in advertising efforts across the country in connection with its Roundel logo and “BMW” mark. As a result of BMW’s long use and promotion of these marks, and prior to the wrongful activities alleged herein, BMW has established its Roundel logo and “BMW” mark as famous trademarks among members of the American public.

### **B. BMW Design Patents**

17. BMW is one of the foremost manufacturers of automobiles and automobile-related products, including wheels, in the world.

18. BMW AG is the owner of various valid and lawfully issued United States Design Patents, including wheel design patent nos. 560,585; 521,921; 502,679; 522,949; 496,623; 516,003; 480,035; 500,005; 514,999; 517,970;

1 594,396; 408,346; 409,968; 449,028; 493,404; and 504,100 (collectively, the  
2 “BMW design patents”). Copies of BMW’s design patents are attached hereto as  
3 Exs. 5(A)-20(A). BMW NA is the exclusive licensee of said patents in the United  
4 States.

5 **C. Defendant’s Wrongful Activities**

6 **i. Trademark Infringement and Related Violations**

7 19. Defendant is advertising and selling hood, trunk, and side emblems  
8 and wheel center caps that feature BMW’s Roundel logo, even though these  
9 products are not made or authorized by BMW. *See* Ex. 1.

10 20. Defendant is also advertising wheels that are not made or authorized  
11 by BMW, but with center caps bearing BMW’s Roundel logo. *See, e.g.*, Ex. 2.

12 21. Defendant is displaying BMW’s Roundel logo in the banner of one of  
13 its internet stores, “BMW Wholesale Parts” at [www.bmwwholesaleparts.com](http://www.bmwwholesaleparts.com), to  
14 give the look and feel of an authorized BMW parts retailer. *See* Ex. 3.

15 22. Defendant is advertising and selling the above-mentioned parts at over  
16 a hundred internet domain names, including at least three BMW-composite domain  
17 names that suggest an affiliation with BMW and which Defendant has registered  
18 without authorization from BMW: (i) [www.bmwpartstore.com](http://www.bmwpartstore.com), (ii)  
19 [www.bmwwholesaleparts.com](http://www.bmwwholesaleparts.com), and (iii) [www.alloembmwparts.com](http://www.alloembmwparts.com) (which does  
20 not exclusively offer original equipment manufacturer (“OEM”) parts for or by  
21 BMW, or even for BMWs).

22 23. Defendant is calling its products “BMW Emblems,” “BMW  
23 Radiators,” “BMW [model] parts,” and the like, even though these products are not,  
24 in fact, BMW emblems, BMW radiators, or BMW parts. *See* Exs. 1, 4.

25 24. Defendant’s unauthorized use of BMW’s trademarks in the manner  
26 described above:

- 27 (a) is likely to cause confusion (including but not limited to post-  
28 purchase and point-of-sale confusion), to cause mistake, and/or



1 to deceive customers and potential customers of the parties, as to  
 2 the origin, sponsorship, or approval of Defendant's products and  
 3 services, or as to some affiliation, connection, or association of  
 4 Defendant with BMW;

5 (b) enables Defendant to trade off of and receive the benefit of  
 6 goodwill BMW built up at great labor and expense over many  
 7 years, and to gain acceptance for Defendant's products and  
 8 services not solely on their own merits, but on the reputation and  
 9 goodwill of BMW, its trademarks, and its products and services;

10 (c) unjustly enriches Defendant; and

11 (d) unlawfully removes from BMW the ability to control the nature  
 12 and quality of products and services provided under BMW's  
 13 trademarks and places the goodwill and valuable reputation of  
 14 BMW in the hands of Defendant, over whom BMW has no  
 15 control.

16 **ii. Design Patent Infringement**

17 25. Defendant is infringing BMW U.S. Design Patent No. 560,585 ("the  
 18 '585 patent") by manufacturing, importing, offering to sell and/or selling wheels  
 19 that are covered by the '585 patent. A copy of BMW's U.S. Design Patent No.  
 20 560,585 and a printout from Defendant's online store showing this wheel style are  
 21 attached hereto as Exhibits 5(A) and (B), respectively.

22 26. Defendant is infringing BMW U.S. Design Patent No. 521,921 ("the  
 23 '921 patent") by manufacturing, importing, offering to sell and/or selling wheels  
 24 that are covered by the '921 patent. A copy of BMW's U.S. Design Patent No.  
 25 521,921 and a printout from Defendant's online store showing this wheel style are  
 26 attached hereto as Exhibits 6(A) and (B), respectively.

27 27. Defendant is infringing BMW U.S. Design Patent No. 502,679 ("the  
 28 '679 patent") by manufacturing, importing, offering to sell and/or selling wheels



1 that are covered by the '679 patent. A copy of BMW's U.S. Design Patent No.  
2 502,679 and a printout from Defendant's online store showing this wheel style are  
3 attached hereto as Exhibits 7(A) and (B), respectively.

4 28. Defendant is infringing BMW U.S. Design Patent No. 522,949 ("the  
5 '949 patent") by manufacturing, importing, offering to sell and/or selling wheels  
6 that are covered by the '949 patent. A copy of BMW's U.S. Design Patent No.  
7 522,949 and a printout from Defendant's online store showing this wheel style are  
8 attached hereto as Exhibits 8(A) and (B), respectively.

9 29. Defendant is infringing BMW U.S. Design Patent No. 496,623 ("the  
10 '623 patent") by manufacturing, importing, offering to sell and/or selling wheels  
11 that are covered by the '623 patent. A copy of BMW's U.S. Design Patent No.  
12 496,623 and a printout from Defendant's online store showing this wheel style are  
13 attached hereto as Exhibits 9(A) and (B), respectively.

14 30. Defendant is infringing BMW U.S. Design Patent No. 516,003 ("the  
15 '003 patent") by manufacturing, importing, offering to sell and/or selling wheels  
16 that are covered by the '003 patent. A copy of BMW's U.S. Design Patent No.  
17 516,003 and a printout from Defendant's online store showing this wheel style are  
18 attached hereto as Exhibits 10(A) and (B), respectively.

19 31. Defendant has been infringing BMW U.S. Design Patent No. 480,035  
20 ("the '035 patent") by manufacturing, importing, offering to sell and/or selling  
21 wheels that are covered by the '035 patent. A copy of BMW's U.S. Design Patent  
22 No. 480,035 and excerpts from Defendant's online store showing this wheel style  
23 are attached hereto as Exhibit 11(A) and (B), respectively.

24 32. Defendant is infringing BMW U.S. Design Patent No. 500,005 ("the  
25 '005 patent") by manufacturing, importing, offering to sell and/or selling wheels  
26 that are covered by the '005 patent. A copy of BMW's U.S. Design Patent No.  
27 500,005 and a printout from Defendant's online store showing this wheel style are  
28 attached hereto as Exhibit 12(A) and (B), respectively.

1           33. Defendant has been infringing BMW U.S. Design Patent No. 514,999  
2 (“the ‘999 patent”) by manufacturing, importing, offering to sell and/or selling  
3 wheels that are covered by the ‘999 patent. A copy of BMW’s U.S. Design Patent  
4 No. 514,999 and excerpts from Defendant’s online store showing this wheel style  
5 are attached hereto as Exhibit 13(A) and (B), respectively.

6           34. Defendant is infringing BMW U.S. Design Patent No. 517,970 (“the  
7 ‘970 patent”) by manufacturing, importing, offering to sell and/or selling wheels  
8 that are covered by the ‘970 patent. A copy of BMW’s U.S. Design Patent No.  
9 517,970 and a printout from Defendant’s online store showing this wheel style are  
10 attached hereto as Exhibit 14(A) and (B), respectively.

11           35. Defendant is infringing BMW U.S. Design Patent No. 594,396 (“the  
12 ‘396 patent”) by manufacturing, importing, offering to sell and/or selling wheels  
13 that are covered by the ‘396 patent. A copy of BMW’s U.S. Design Patent No.  
14 594,396 and a printout from Defendant’s online store showing this wheel style are  
15 attached hereto as Exhibit 15(A) and (B), respectively.

16           36. Defendant is infringing BMW U.S. Design Patent No. 408,346 (“the  
17 ‘346 patent”) by manufacturing, importing, offering to sell and/or selling wheels  
18 that are covered by the ‘346 patent. A copy of BMW’s U.S. Design Patent No.  
19 408,346 and a printout from Defendant’s online store showing this wheel style are  
20 attached hereto as Exhibit 16(A) and (B), respectively.

21           37. Defendant is infringing BMW U.S. Design Patent No. 409,968 (“the  
22 ‘968 patent”) by manufacturing, importing, offering to sell and/or selling wheels  
23 that are covered by the ‘968 patent. A copy of BMW’s U.S. Design Patent No.  
24 409,968 and a printout from Defendant’s online store showing this wheel style are  
25 attached hereto as Exhibit 17(A) and (B), respectively.

26           38. Defendant is infringing BMW U.S. Design Patent No. 449,028 (“the  
27 ‘028 patent”) by manufacturing, importing, offering to sell and/or selling wheels  
28 that are covered by the ‘028 patent. A copy of BMW’s U.S. Design Patent No.

1 449,028 and a printout from Defendant's online store showing this wheel style are  
2 attached hereto as Exhibit 18(A) and (B), respectively.

3 39. Defendant is infringing BMW U.S. Design Patent No. 493,404 ("the  
4 '404 patent") by manufacturing, importing, offering to sell and/or selling wheels  
5 that are covered by the '404 patent. A copy of BMW's U.S. Design Patent No.  
6 493,404 and a printout from Defendant's online store showing this wheel style are  
7 attached hereto as Exhibit 19(A) and (B), respectively.

8 40. Defendant is infringing BMW U.S. Design Patent No. 504,100 ("the  
9 '100 patent") by manufacturing, importing, offering to sell and/or selling wheels  
10 that are covered by the '100 patent. A copy of BMW's U.S. Design Patent No.  
11 504,100 and a printout from Defendant's online store showing this wheel style are  
12 attached hereto as Exhibit 20(A) and (B), respectively.

13 41. BMW has been damaged and continues to be damaged by Defendant's  
14 activities in the manner described above.

15 42. Unless these acts of Defendant are restrained by this Court, they will  
16 continue to cause irreparable injury to BMW and to the public for which there is no  
17 adequate remedy at law.

## 18 **V. FIRST CLAIM FOR RELIEF**

### 19 **(Federal Trademark Infringement and Counterfeiting 20 Under Lanham Act § 32, 15 U.S.C. § 1114(1))**

21 43. BMW realleges and incorporates the allegations set forth in paragraphs  
22 1 through 42 herein.

23 44. Defendant's advertisement and sale of non-genuine hood, trunk, and  
24 side emblems and wheel center caps bearing BMW's Roundel logo constitute  
25 trademark counterfeiting and is otherwise likely to cause confusion, cause mistake,  
26 or deceive customers as to source, sponsorship, affiliation, or association.

27 45. Plaintiffs own a trademark registration for the Roundel logo  
28 specifically covering "land vehicles and parts thereof" and "car bodies and parts

thereof” in International Class 12 (Reg. No. 1,450,212). The emblems and center caps – and the hoods, trunks, side panels, and wheels on which these items are mounted – are parts of land vehicles and car bodies.

46. Defendant’s advertisement of non-genuine wheels with center caps bearing BMW’s Roundel logo, display of BMW’s Roundel logo in its store banner at [www.bmwwholesaleparts.com](http://www.bmwwholesaleparts.com), registration of at least three BMW-composite domain names, and description of non-genuine goods as “BMW emblems,” “BMW radiators,” and the like, falsely indicates that Defendant’s products are made, authorized, sponsored or approved by Plaintiffs, when such is not the case, and is likely to cause confusion, mistake, and deception as to the source, affiliation or association of Defendant’s products.

47. The acts of Defendant complained of herein constitute use in commerce of reproductions, copies, or colorable imitations of Plaintiffs’ federally registered Roundel logo and “BMW” mark in connection with the sale, offering for sale, distribution and advertising of goods and services in violation of 15 U.S.C. § 1114(1).

48. Defendant’s acts complained of herein have been deliberate, willful, and intentional, with full knowledge and in conscious disregard of Plaintiffs’ rights in their marks and with intent to trade off Plaintiffs’ vast goodwill in their marks.

49. As a result of the foregoing alleged actions of Defendant, Plaintiffs have been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, Plaintiffs will continue to suffer injury and damage.

## **VI. SECOND CLAIM FOR RELIEF**

### **(Federal Unfair Competition and False Designation of Origin Under Lanham Act § 43(a), 15 U.S.C. § 1125(a))**

50. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 49 herein.

1           51. Defendant's advertisement and sale of non-genuine hood, trunk, and  
2 side emblems and wheel center caps bearing BMW's Roundel logo falsely  
3 indicates that Defendant and its products and services are connected with,  
4 sponsored by, affiliated with, or related to BMW.

5           52. Defendant's advertisement of non-genuine wheels with center caps  
6 bearing BMW's Roundel logo, display of BMW's Roundel logo in its store banner  
7 at [www.bmwwholesaleparts.com](http://www.bmwwholesaleparts.com), registration of at least three BMW-composite  
8 domain names, and description of non-genuine goods as "BMW emblems," "BMW  
9 radiators," and the like, falsely indicates that Defendant's products are made,  
10 authorized, sponsored or approved by Plaintiffs, when such is not the case, and is  
11 likely to cause confusion, mistake, and deception as to the source, affiliation or  
12 association of Defendant's products.

13           53. Defendant's unauthorized use of BMW's Roundel logo and "BMW"  
14 mark in connection with its business as described herein has caused, and is likely to  
15 continue to cause confusion, mistake, and deception as to the source or sponsorship  
16 of Defendant and its products and services.

17           54. The acts of Defendant complained of herein constitute unfair  
18 competition, false designation of origin, and trade name infringement in violation of  
19 Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

20           55. Defendant's acts complained of herein have been deliberate, willful,  
21 and intentional, with full knowledge and in conscious disregard of BMW's rights in  
22 its marks.

23           56. As a result of the foregoing alleged actions of Defendant, BMW has  
24 been injured and damaged. Unless the foregoing alleged actions of Defendant are  
25 enjoined, BMW will continue to suffer injury and damage.

**VII. THIRD CLAIM FOR RELIEF**

**(Violation of the Anticybersquatting Consumer Protection Act  
Lanham Act § 43(d), 15 U.S.C. § 1125(d))**

57. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 56 herein.

58. The domain names registered by Defendant, (i) www.alloembmwparts.com; (ii) www.bmwpartstore.com; and (iii) www.bmwwholesaleparts.com, incorporate Plaintiffs' "BMW" mark. The "BMW" mark was famous and/or distinctive at the time of the registration of these domain names.

59. Defendant's registration, warehousing, and use of these domain names has been and is in bad faith, in that the registration and use occurred (i) with full knowledge and conscious disregard of BMW's rights in its "BMW" mark and (ii) with an intent to profit from BMW's vast goodwill in this mark through Defendant's sale of counterfeit and infringing goods at these domains.

60. The acts of Defendant complained of herein constitute cybersquatting in violation of Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

61. As a result of the foregoing alleged actions, BMW has been injured and damaged. Unless the foregoing alleged actions of Defendant are enjoined, BMW will continue to suffer injury and damage.

**VIII. FOURTH CLAIM FOR RELIEF**

**(California Statutory Unfair Competition  
Under Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**

62. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 61 herein.

63. Defendant's business practices are unlawful, unfair, and/or fraudulent and therefore violate Cal. Bus. & Prof. Code §§ 17200, *et seq.*

1           64. As a result of Defendant's acts of unfair competition, BMW has  
2 suffered and will continue to suffer damage, and Defendant has been unjustly  
3 enriched.

4           65. By reason of Defendant's acts, BMW has suffered, and will continue  
5 to suffer irreparable harm, for which BMW has no adequate remedy at law, unless  
6 and until Defendant is enjoined.

7                           **IX. FIFTH CLAIM FOR RELIEF**

8                           **(Common Law Unfair Competition)**

9           66. BMW realleges and incorporates the allegations set forth in paragraphs  
10 1 through 65 herein.

11           67. The acts of Defendant complained of herein constitute trademark  
12 infringement and unfair competition in violation of the common law of California.

13           68. Defendant's use of the infringing marks as described above has  
14 caused, is causing and, unless enjoined by this Court, will continue to cause  
15 confusion and mistake in the marketplace and deception of the trade and public as  
16 to the relationship or affiliation of the parties and the source, origin, or sponsorship  
17 of their respective products and/or services.

18           69. Defendant, with full knowledge of BMW's rights in its Roundel logo  
19 and "BMW" mark, and of the valuable goodwill associated therewith, has  
20 committed the acts alleged herein willfully, with the intent to trade off, or in  
21 complete disregard of, BMW's goodwill and the goodwill associated with BMW's  
22 marks.

23           70. As a result of the foregoing alleged actions, Defendant has been  
24 unjustly enriched and BMW has been injured and damaged. Unless the foregoing  
25 alleged actions of Defendant are enjoined, BMW will continue to suffer injury and  
26 damage.

27           71. Defendant's use of the infringing marks as described above has  
28 impaired, is impairing and, unless enjoined by this Court, will continue to impair



1 BMW's reputation under its trademarks and has caused, is causing and, unless  
 2 enjoined by this Court, will continue to cause injury and damage to BMW for  
 3 which BMW is entitled to relief under the common law.

#### 4 **X. SIXTH CLAIM FOR RELIEF**

##### 5 **(Design Patent Infringement of U.S. Design Patent 6 No. 560,585 Under 35 U.S.C. §271)**

7 72. BMW realleges and incorporates the allegations set forth in paragraphs  
 8 1 through 71 herein.

9 73. Defendant has been infringing U.S. Design Patent No. 560,585 in  
 10 violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or  
 11 distributing products that are covered by the '585 patent in the United States.

12 74. As a result of Defendant's infringement, Plaintiffs have suffered and  
 13 will continue to suffer damages. Upon information and belief, Defendant's  
 14 infringement will persist unless enjoined by this Court.

15 75. The acts complained of herein constitute design patent infringement in  
 16 violation of 35 U.S.C. § 271.

#### 17 **XI. SEVENTH CLAIM FOR RELIEF**

##### 18 **(Design Patent Infringement of U.S. Design Patent 19 No. 521,921 Under 35 U.S.C. §271)**

20 76. BMW realleges and incorporates the allegations set forth in paragraphs  
 21 1 through 75 herein.

22 77. Defendant has been infringing U.S. Design Patent No. 521,921 in  
 23 violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or  
 24 distributing products that are covered by the '921 patent in the United States.

25 78. As a result of Defendant's infringement, Plaintiffs have suffered and  
 26 will continue to suffer damages. Upon information and belief, Defendant's  
 27 infringement will persist unless enjoined by this Court.

28 79. The acts complained of herein constitute design patent infringement in  
 violation of 35 U.S.C. § 271.

**XII. EIGHTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 502,679 Under 35 U.S.C. §271)**

80. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 79 herein.

81. Defendant has been infringing U.S. Design Patent No. 502,679 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '679 patent in the United States.

82. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

83. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XIII. NINTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 522,949 Under 35 U.S.C. §271)**

84. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 83 herein.

85. Defendant has been infringing U.S. Design Patent No. 522,949 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '949 patent in the United States.

86. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

87. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XIV. TENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 496,623 Under 35 U.S.C. §271)**

88. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 87 herein.

89. Defendant has been infringing U.S. Design Patent No. 496,623 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '623 patent in the United States.

90. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

91. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XV. ELEVENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 516,003 Under 35 U.S.C. §271)**

92. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 91 herein.

93. Defendant has been infringing U.S. Design Patent No. 516,003 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '003 patent in the United States.

94. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

95. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XVI. TWELFTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 480,035 Under 35 U.S.C. §271)**

96. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 95 herein.

97. Defendant has been infringing U.S. Design Patent No. 480,035 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '035 patent in the United States.

98. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

99. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XVII. THIRTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 500,005 Under 35 U.S.C. §271)**

100. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 99 herein.

101. Defendant has been infringing U.S. Design Patent No. 500,005 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '005 patent in the United States.

102. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

103. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XVIII. FOURTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 514,999 Under 35 U.S.C. §271)**

104. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 103 herein.

105. Defendant has been infringing U.S. Design Patent No. 514,999 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '999 patent in the United States.

106. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

107. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XIX. FIFTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 517,970 Under 35 U.S.C. §271)**

108. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 107 herein.

109. Defendant has been infringing U.S. Design Patent No. 517,970 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the '970 patent in the United States.

110. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

111. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XX. SIXTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 594,396 Under 35 U.S.C. §271)**

112. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 111 herein.

113. Defendant has been infringing U.S. Design Patent No. 594,396 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the 594,396 patent in the United States.

114. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

115. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XXI. SEVENTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 408,346 Under 35 U.S.C. §271)**

116. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 115 herein.

117. Defendant has been infringing U.S. Design Patent No. 408,346 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the 408,346 patent in the United States.

118. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

119. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XXII. EIGHTEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 409,968 Under 35 U.S.C. §271)**

120. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 119 herein.

121. Defendant has been infringing U.S. Design Patent No. 409,968 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the 409,968 patent in the United States.

122. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

123. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.

**XXIII. NINETEENTH CLAIM FOR RELIEF**

**(Design Patent Infringement of U.S. Design Patent  
No. 449,028 Under 35 U.S.C. §271)**

124. BMW realleges and incorporates the allegations set forth in paragraphs 1 through 123 herein.

125. Defendant has been infringing U.S. Design Patent No. 449,028 in violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or distributing products that are covered by the 449,028 patent in the United States.

126. As a result of Defendant's infringement, Plaintiffs have suffered and will continue to suffer damages. Upon information and belief, Defendant's infringement will persist unless enjoined by this Court.

127. The acts complained of herein constitute design patent infringement in violation of 35 U.S.C. § 271.



1                                   **XXIV. TWENTIETH CLAIM FOR RELIEF**

2                                   **(Design Patent Infringement of U.S. Design Patent**  
3                                   **No. 493,404 Under 35 U.S.C. §271)**

4           128. BMW realleges and incorporates the allegations set forth in paragraphs  
5 1 through 127 herein.

6           129. Defendant has been infringing U.S. Design Patent No. 493,404 in  
7 violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or  
8 distributing products that are covered by the 493,404 patent in the United States.

9           130. As a result of Defendant's infringement, Plaintiffs have suffered and  
10 will continue to suffer damages. Upon information and belief, Defendant's  
11 infringement will persist unless enjoined by this Court.

12           131. The acts complained of herein constitute design patent infringement in  
13 violation of 35 U.S.C. § 271.

14                                   **XXV. TWENTY-FIRST CLAIM FOR RELIEF**

15                                   **(Design Patent Infringement of U.S. Design Patent**  
16                                   **No. 504,100 Under 35 U.S.C. §271)**

17           132. BMW realleges and incorporates the allegations set forth in paragraphs  
18 1 through 131 herein.

19           133. Defendant has been infringing U.S. Design Patent No. 504,100 in  
20 violation of 35 U.S.C. § 271 by making, offering for sale, selling, and/or  
21 distributing products that are covered by the 504,100 patent in the United States.

22           134. As a result of Defendant's infringement, Plaintiffs have suffered and  
23 will continue to suffer damages. Upon information and belief, Defendant's  
24 infringement will persist unless enjoined by this Court.

25           135. The acts complained of herein constitute design patent infringement in  
26 violation of 35 U.S.C. § 271.

27                                   **PRAYER FOR RELIEF**

28           WHEREFORE, BMW prays that:

1           1.     Defendant be adjudged liable as to the foregoing claims.

2           2.     Defendant, its agents, servants, employees, affiliates, subsidiaries,  
3 related companies, partners, wholesalers, importers, exporters, distributors, and all  
4 others in active concert or participation with any of them, be permanently enjoined  
5 and restrained from:

6               (a)    manufacturing, advertising, offering for sale, ordering, taking  
7 orders for, purchasing, brokering, importing, selling,  
8 distributing, warehousing, marketing or promoting any non-  
9 genuine BMW products that display or otherwise bear any  
10 BMW trademarks or colorable imitations thereof;

11              (b)    displaying BMW's Roundel logo or any other BMW logo or  
12 colorable imitation thereof, in connection with its or any  
13 business;

14              (c)    registering, offering for sale, selling, or otherwise using domain  
15 names or monikers incorporating the letters BMW or any of  
16 BMW's other famous marks in a manner that is likely to be  
17 confusing as to source, sponsorship, affiliation or approval;

18              (d)    describing products that are not made or authorized by BMW as  
19 "BMW [product]," and the like, whether in product titles,  
20 listings, or hyperlinks;

21              (e)    manufacturing, importing, marketing, advertising, offering to  
22 sell and/or selling wheels that infringe upon BMW's U.S.  
23 Design Patent Nos. 560,585; 521,921; 502,679; 522,949;  
24 496,623; 516,003; 480,035; 500,005; 514,999; 517,970;  
25 594,396; 408,346; 409,968; 449,028; 493,404; and 504,100; and

26              (f)    doing any other act or thing likely to confuse, mislead, or  
27 deceive others into believing that Defendant emanates from, or  
28

1 is connected with, sponsored or approved by, BMW, or that any  
2 of its products are otherwise authorized by BMW.

3 3. Defendant, in accordance with Section 43(d) of the United States  
4 Trademark Act, 15 U.S.C. § 1125(d), be required to cancel or, at BMW's election,  
5 transfer the domain names (i) www.bmwpartstore.com, (ii)  
6 www.bmwwholesaleparts.com, and (iii) www.alloembmwparts.com to BMW.

7 4. Defendant, in accordance with Section 34(a) of the United States  
8 Trademark Act, 15 U.S.C. § 1116(a), be required to file with the Court, and serve  
9 upon BMW, within thirty (30) days after the entry and service on Defendant of an  
10 injunction, a report in writing and under oath, setting forth in detail the manner and  
11 form in which Defendant has complied with the terms of such injunction.

12 5. Defendant be required to pay to BMW for its willful counterfeiting and  
13 trademark infringement:

- 14 (a) in accordance with Section 35 of the United States Trademark  
15 Act, 15 U.S.C. § 1117(b) and (c), an award of Defendant's  
16 profits and BMW's actual damages, including pre-judgment  
17 interest, the greater of which being trebled, or statutory damages  
18 up to \$2 million per counterfeit mark per type of counterfeit  
19 good sold by Defendant, offered for sale, or distributed by  
20 Defendant, resulting from Defendant's intentional use of  
21 BMW's federally registered trademark in connection with the  
22 sale of products that are not made or authorized by BMW;
- 23 (b) in accordance with Section 35(a) of the United States Trademark  
24 Act, 15 U.S.C. § 1117(a) and (b), an award of treble BMW's  
25 actual damages plus Defendant's profits;
- 26 (c) exemplary or punitive damages in a sum sufficient to deter  
27 future acts of and trademark infringement, as well as of unfair  
28 competition;

(d) statutory damages of \$200,000.00 per domain name relating to Defendant's unlawful acts of cybersquatting; and

(e) BMW's attorneys' fees and costs of this action.

6. Defendant be required to pay to BMW for its design patent infringement:

(a) total profits pursuant to 35 U.S.C. § 289; and

(b) BMW's damages, trebled pursuant to 35 U.S.C. § 284.

7. BMW recover such other relief as the Court may deem appropriate.

Dated: September 22, 2011

Respectfully submitted,

JONES DAY

By   
Brent D. Sokol (SBN 167537)  
bdsokol@JonesDay.com

John G. Froemming (*pro hac vice*  
application to be submitted  
jfroemming@jonesday.com  
David Jaquette (*pro hac vice*  
application to be submitted)  
djaquette@jonesday.com

Attorneys for Plaintiffs  
BMW OF NORTH AMERICA, LLC  
and BAYERISCHE MOTOREN  
WERKE AG

**DEMAND FOR JURY TRIAL**

Plaintiffs BMW of North America, LLC and Bayerische Motoren Werke AG  
hereby demand trial by jury.

Dated: September 22, 2011

Respectfully submitted,

JONES DAY

By   
Brent D. Sokol (SBN 167537)  
bdsokol@JonesDay.com

John G. Froemming (*pro hac vice*  
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jfroemming@jonesday.com  
David Jaquette (*pro hac vice*  
application to be submitted)  
djaquette@jonesday.com

Attorneys for Plaintiffs  
BMW OF NORTH AMERICA, LLC  
and BAYERISCHE MOTOREN  
WERKE AG

Name &amp; Address:

Brent D. Sokol (SBN 167537)

JONES DAY

555 South Flower St., 50th Floor

Los Angeles, CA 90071

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

BMW OF NORTH AMERICA, LLC and  
BAYERISCHE MOTOREN WERKE AG,

PLAINTIFF(S)

v.

U.S. AUTO PARTS NETWORK, INC.,

DEFENDANT(S).

CASE NUMBER

**CV11-07863PLA****SUMMONS**TO: DEFENDANT(S): U.S. AUTO PARTS NETWORK, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ \_\_\_\_\_ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Brent D. Sokol, whose address is Jones Day, 555 South Flower Street, 50th Floor, Los Angeles, CA 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

**SEP 22 2011**

Dated: \_\_\_\_\_

Clerk, U.S. District Court

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)

*[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].*

Name &amp; Address:

Brent D. Sokol (SBN 167537)  
 JONES DAY  
 555 South Flower St., 50th Floor  
 Los Angeles, CA 90071

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

BMW OF NORTH AMERICA, LLC and  
 BAYERISCHE MOTOREN WERKE AG,

PLAINTIFF(S)

v.

U.S. AUTO PARTS NETWORK, INC.,

DEFENDANT(S).

CASE NUMBER

CV11-07863 PLA

SUMMONS

TO: DEFENDANT(S): U.S. AUTO PARTS NETWORK, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Brent D. Sokol, whose address is Jones Day, 555 South Flower Street, 50th Floor, Los Angeles, CA 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SEP 22 2011

Dated: \_\_\_\_\_

Clerk, U.S. District Court

JULIE PRADO

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)

SEAL

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) BMW OF NORTH AMERICA, LLC and BAYERISCHE MOTOREN WERKE AG	<b>DEFENDANTS</b> U.S. AUTO PARTS NETWORK, INC.
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  Jones Day 555 S. Flower St., 50th Fl., Los Angeles, CA 90071 213-489-3939	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:45%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input checked="" type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT:** **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☐ Yes ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ at least \$600,000.00

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 15 USC Sec. 1051 et seq (sale of infringing goods bearing BMW logo); 35 USC Sec. 271 (sale of vehicle parts that infringe BMW's design patents); 15 USC Sec. 1125(d)

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
	Bergen County, New Jersey Munich, Germany

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District: *	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

*[Signature]*

Date

9/22/11

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))